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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,269	01/02/2004	Jonathan M. Katz	VIT.P0029	1735

7590 12/29/2004  
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EXAMINER

KIM, CHRISTOPHER S

ART UNIT PAPER NUMBER

3752

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/750,269	Applicant(s) KATZ ET AL.	
	Examiner Christopher S. Kim	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/9/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species B, figure 8 in the reply filed on November 22, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 7, 11, 13, 14, 20, 21, 25, 26, 27, 28, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Gilmour (2,536,167).

Gilmour discloses a device comprising: a spray head 4; a tube 1; a plunger 9; a rim 12; a seal 5; a hose (column 1, line 4).

4. Claims 1, 10, 14, 15 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Vita-Mix Corporation (IDS, Other Document #2).

See figure 2.

5. Claims 1, 2, 4, 7, 11, 12, 13, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dadson (4,219,162).

Dadson discloses a device comprising: a spray head 15; a tube 13; a plunger 20; a rim 16; a seal 19; wings (back side of valve 16).

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Warren (930,444).

Warren discloses a device comprising: a spray head B; a tube 13A; a plunger d; a seal b; at least on rib (threads between b and B).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5, 6, 8, 9, 22, 23, 29, 31-33, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilmour (2,536,167) in view of Larbuisson (5,806,832).

Gilmour discloses the limitations of the claimed invention with the exception of the connecting device. Larbuisson discloses a connecting device having a button 7, valve 5 and spring 2. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the connecting device of Larbuisson to the hose of Gilmour for quick disconnects and pressure release (Larbuisson, column 1, lines 4-6).

9. Claims 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vita-Mix Corporation (IDS, Other Document #2) in view of Larbuisson (5,806,832).

Vita-Mix Corporation discloses the limitations of the claimed invention with the exception of the connecting device. Larbuisson discloses a connecting device having a button 7, valve 5 and spring 2. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the connecting device of Larbuisson to the hose of Vita-Mix Corporation for quick disconnects and pressure release (Larbuisson, column 1, lines 4-6).

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vita-Mix Corporation (IDS, Other Document #2) in view of Bouldin (5,901,906).

Vita-Mix Corporation discloses the limitations of the claimed invention with the exception of the radially directed spray apertures. Bouldin discloses an axial outlet and radial outlets 20. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the radially directed spray apertures to the spray head of Vita-Mix Corporation as taught by Bouldin to provide radial spray.

11. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vita-Mix Corporation (IDS, Other Document #2).


Vita-Mix Corporation discloses the limitations of the claimed invention with the exception of the nose. The nose and base are shown as one piece. Providing a nose and base is a mere separation of parts. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a separate nose and base, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Christopher S. Kim  
Primary Examiner  
Art Unit 3752

CK